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OFFICE OF PETITIONS

In re Application of :
YUEN, MANKOVITZ and KWOH :
Application No. 10/720,006 : **DECISION ON PETITION**
Filed: November 20, 2003 :
Attorney Docket Number: GS-030 Cont 4 RE :
Title: APPARATUS AND METHOD FOR :
IMPROVED PARENTAL CONTROL OF :
TELEVISION USE :

This is a decision on the petition under 37 CFR 1.47(a) filed March 29, 2010, which is treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.175 where they require that a supplemental declaration be executed by the named inventors.¹

This is also in response to the petition under 37 CFR 1.182 filed June 3, 2010, requesting expedited consideration of the instant petition.

The petition under 37 CFR 1.182 for expedited consideration is **GRANTED**.

The petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.175 is **DISMISSED as moot**.

REVIEW OF FACTS

1. On November 20, 2003, the application papers were deposited as an application for reissue of U.S. Patent No. 6,321,381.

¹ Once an application has received a fully executed oath or declaration that has been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

2. On March 10, 2004, the Office mailed a Notice to File Missing Parts of Reissue Application stating that the oath or declaration was unsigned and that the consent of the assignee and the assignee's statement under 37 CFR 3.73(b) were missing. Applicants were given two months from the date of the Notice to file the required items and pay a \$130.00 surcharge to avoid abandonment. Extensions of time for response were permitted under 37 CFR 1.136(a).
3. On July 9, 2004, a petition under 37 CFR 1.47(a) was filed, accompanied by a petition for an extension of time for response within the second month (and fee), a reissue application declaration, the consent of the assignee, the assignee's statement under 37 CFR 3.73(b) and the \$130.00 surcharge. The reissue application declaration was signed by joint inventors Roy J. Mankovitz and Daniel S. Kwoh on behalf joint inventor Henry C. Yuen.
4. On September 21, 2004, the petition under 37 CFR 1.47(a) was dismissed.
5. On October 25, 2005, a petition under 37 CFR 1.137(b) (and fee) and request for reconsideration of the petition under 37 CFR 1.47(a) were filed.
6. On February 21, 2006, the petitions under 37 CFR 1.137(b) and 37 CFR 1.47(a) were granted.
7. On September 29, 2009, a non-final Office action was mailed requiring a supplemental reissue declaration under 37 CFR 1.175(b). The non-final Office action stated that the reissue declaration is defective because it does not state that the person making the oath or declaration has reviewed and understands the contents of the specification, including the claims, as amended by any amendment specifically referred to in the oath or declaration as required by 37 CFR 1.63(b)(2). The non-final Office action further indicated that claims 1-76 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251.
8. On March 29, 2010, the present petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.175 (and \$200.00 fee) was filed, accompanied by a request for an extension of time for response within the third month (and fee) and a supplemental reissue declaration signed by joint inventors Roy J. Mankovitz and Daniel S. Kwoh on behalf joint inventor Henry C. Yuen.
9. On June 3, 2010, a petition under 37 CFR 1.182 for expedited consideration (and \$400.00 fee) was submitted.

DECISION ON PETITION UNDER 37 CFR 1.183
TO WAIVE §§ 1.67 AND 1.175

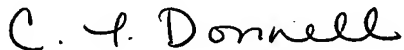
At the outset, a petition under 37 CFR 1.47(a) was granted with respect to joint inventor Yuen. As this application was previously accorded Rule 1.47(a) status, consideration of a request to accept a supplemental reissue declaration is properly considered under 37 CFR 1.183. Suspension of the rules under 37 CFR 1.183 may be granted in an "extraordinary situation, when justice requires." The facts present on the record do not adequately establish an extraordinary

situation. Petitioner has not sufficiently established any special circumstance of equities that would require suspension of the rules in the interest of justice. As a petition under 37 CFR 1.47(a) was previously granted to permit joint inventors Roy J. Mankovitz and Daniel S. Kwoh to sign on behalf of non-signing joint inventor Henry C. Yuen, further relief under 37 CFR 1.47(a) or 1.183 is unnecessary. Joint inventors Roy J. Mankovitz and Daniel S. Kwoh may sign a supplemental reissue declaration on behalf of the non-signing joint inventor throughout the prosecution. Accordingly, the petition is **dismissed as moot**.

CONCLUSION

1. The petition under 37 CFR 1.182 for expedited consideration is granted.
2. The petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.175 is dismissed as moot.
3. The \$200.00 fee submitted with the petition on March 29, 2010, will be refunded in due course.
3. Jurisdiction over the application is referred to Technology Center Art Unit 2622 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-2311.



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